

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ERIC STEWART,

Petitioner,

v.

Case Number 06-11741
Honorable Thomas L. Ludington

RAYMOND BOOKER,

Respondent.

**ORDER GRANTING PETITIONER'S MOTION
TO WAIVE THE APPELLATE FILING FEE**

On June 17, 2008, the Court denied Petitioner's habeas corpus petition and entered judgment accordingly; the Court also declined to issue a certificate of appealability. On July 25, 2008, Petitioner filed a notice of appeal. On September 2, 2008, Petitioner filed the motion currently before the Court, to "waive the appellate filing fee." The Court construes Petitioner's motion as an application to proceed in forma pauperis on appeal.

Although the Court declined to issue a certificate of appealability, the standard for issuing a certificate of appealability has a higher threshold than the standard for granting leave to appeal in forma pauperis. *United States v. Youngblood*, 116 F.3d 1113, 1115 (5th Cir. 1997). Petitioner must show that his appeal is taken in good faith and is not frivolous. *Id.*; 28 U.S.C. § 1915(a)(3). The issues in this case are not frivolous.

Accordingly, it is **ORDERED** that Petitioner's motion to waive the appellate filing fee [Dkt. # 33] is **GRANTED**. Petitioner may proceed in forma pauperis on appeal.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: October 2, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 2, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS